

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

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APPEAL FROM YORK COUNTY  
Court of Common Pleas

S. Jackson Kimball , Special Circuit Court

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Appellate Case No. 2010- 150386

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SunTrust Mortgage, Inc., .....Respondent,

v.

Mark Ostendorff.....Petitioner.

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OPPOSITION TO MOTION TO DISMISS

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Mark Ostendorff  
137 King St  
Central, SC 29630  
(864)640-3340  
Petitioner, Pro Se

Brian S. Tatum  
Tatum Law Firm  
PO Box 11250  
Charlotte, NC 29630  
(704) 307-4350  
Attorney for Respondent

**RECEIVED**

MAR 18 2013

**S.C. Supreme Court**

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MAR 18 2013

**SC Court of Appeals**

Ostendorff opposes SunTrust's Motion as follows:

RULE 267, SCACR, Form Of Papers, - If the Court wishes Ostendorff to resubmit his Petition for double spacing , then he will gladly do so. The double spacing will still not exceed the total allowable sheet number.

The findings of fact by trial court are not supported by anything, not in loan contract documents nor by Susan Walker's affidavit. No where is a due date stated in the loan documents or given issue by Susan Walker's affidavit. Only SunTrust's attorney brought up the surprise issue at Motion to Dismiss. An attorney's statement is not evidence.

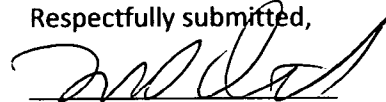
No reasonable jury would return a verdict for SunTrust just because of their attorney's statement. Any reasonable jury would find it ridiculous to rule in favor of a party when that party never claimed it as a defense , especially when that party refused to give addresses of former employees that would dispute their attorney's statement.

The trial court erred in allowing SunTrust's attorney to even bring up the due date issue as it was not in the pleadings nor an an issue in Susan Walker's affidavit.

Therefore this court should deny the SunTrust's Motion To Dismiss.

March 14, 2013

Respectfully submitted,



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CERTIFICATE OF SERVICE

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I, Mark Ostendorff, certify that I placed in the United Postal Service with proper postage , a copy of Opposition to Motion to Dismiss and also Reply to Return to Petition for Writ of Certiorari addressed to the Respondent's attorney at:

Brian S. Tatum  
Tatum Law Firm  
POBox 11250  
Charlotte, NC 28220  
(704) 307-4350

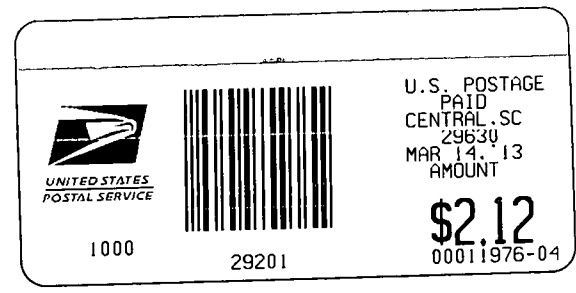
March 14, 2013



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STEDORFF

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HONORABLE JENNIFER ARBON KITCHENS  
CLERK, SC COURT OF APPEALS  
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